

REMARKS

I. STATUS OF THE CLAIMS

None of the claims have been amended herein. In view of the above, it is respectfully submitted that claims 1-16 are pending and under consideration.

II. THE REJECTION OF CLAIMS 1-8 AND 13-16 UNDER 35 U.S.C. § 102(e) AS BEING ANTICIPATED BY IZUMI

Applicants respectfully traverse this rejection for at least the following reasons.

Independent claim 1 recites a method of controlling the balance of a photodetector including, amongst other novel features, "moving the photodetector so that a center of a first spot received from said first light source by the photodetector is concentric with the center of the photodetector."

Independent claim 5 recites a method of controlling the balance of a photodetector including, amongst other novel features, "moving the photodetector so that first light from the first light source and reflected from a corresponding first optical disk is concentric with the photodetector."

Independent claim 13 recites an optical recording and/or reproducing apparatus including, amongst other novel elements, "a photodetector movable so that first light from the first light source and reflected from a corresponding first optical disk is concentric with the photodetector."

The Office Action relies upon Izumi for a teaching of "the position of the detecting part is determined to correspond with the light of the first light source and it is moved to a predetermined position with respect to the first light source" and cites column 20, lines 44-61 for such a teaching.

However, at column 20, lines 44-61 Izumi fails to teach or suggest moving the detecting part as alleged in the Office Action. Izumi teaches that the positions of the optical detector 9 and the like are determined so that an output signal derived from the detected light spot and applied at the position in the light reception area can be used at a later signal processing (column 20, lines 45-49). Izumi also teaches that the position of the optical detector is determined by using as a reference the reflection light beam for detecting DVD, but the reflection light beam for detecting CD is not necessarily set so that the detection light spot is applied to the

predetermined position in the light reception area in the receivable light reception range (column 20, lines 55-61).

Accordingly, Izumi fails to teach "the position of the **detecting part is determined to correspond with the light of the first light source and it is moved to a predetermined position with respect to the first light source,**" as suggested in the Office Action.

Accordingly, Izumi fails to teach or suggest "moving the photodetector..." as recited in independent claims 1 and 5 or "a photodetector movable..." as recited in independent claim 13.

Accordingly, Applicants respectfully assert that the rejection under 35 U.S.C. §102(e) should be withdrawn because Izumi fails to teach or suggest each feature of independent claims 1, 5 and 13.

Furthermore, Applicants respectfully assert that claims 2-4 are allowable at least because of their dependence from independent claim 1, and the reasons set forth above, claims 6-8 are allowable at least because of their dependence from independent claim 5, and claims 14-16 are allowable at least because of their dependence from independent claim 13.

III. THE REJECTION OF CLAIMS 9-12 UNDER 35 U.S.C. 103(a) AS BEING UNPATENTABLE OVER YANG IN VIEW OF IZUMI

Applicants respectfully traverse this rejection for at least the following reasons.

Independent claim 9 recites an apparatus to control the balance of a photodetector to increase the light reception efficiency, including amongst other novel elements, "a photodetector," "wherein the photodetector is movable to regulate positioning of the other one of said first and second light spots."

The Office Action recognizes that Yang fails to disclose that the holographic optical element and the photodetector are movable (page 8 of the Office Action) and relies upon Izumi for such a teaching.

However, as noted above, Izumi fails to teach or suggest moving the photodetector or a movable photodetector. Accordingly, Izumi fails to cure the deficiencies of Yang.

Therefore, Applicants respectfully assert that the rejection of claim 9 under 35 U.S.C. §103(a) should be withdrawn because neither Yang nor Izumi, whether taken singly or combined teach or suggest each feature of independent claim 9.

Furthermore, Applicants respectfully assert that claims 10-12 are allowable at least

because of their dependence from independent claim 9, and the reasons set forth above.

IV. CONCLUSION

In view of the above and there being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Date: November 4, 2004

By: Douglas Rodriguez
Douglas X. Rodriguez
Registration No. 47,269

1201 New York Avenue, NW, Suite 700
Washington, D.C. 20005
Telephone: (202) 434-1500
Facsimile: (202) 434-1501